

EXHIBIT 3

THE
STATUTES OF ILLINOIS:

AN
ANALYTICAL DIGEST
OF ALL THE
GENERAL LAWS OF THE STATE
IN FORCE AT THE PRESENT TIME

1818 TO 1868.

WITH A CLASSIFIED INDEX
TO ALL
LOCAL, SPECIAL AND TRANSIENT ACTS,
SINCE DECEMBER, 1864.

EDITED BY
EUGENE L. GROSS,
OF THE SPRINGFIELD BAR.

CHICAGO:
E. B. MYERS AND COMPANY,
LAW BOOKSELLERS AND PUBLISHERS.
1868.

FROM THE SUPREME COURT.

OTTAWA, OCT. 28, 1868.

E. B. MYERS, Esq., *Law Publisher*:

Dear Sir:—We have examined, so far as time would permit, the compilation of all the Statutes now in force in this State, prepared by Mr. Gross. We consider the plan of the work excellent, founded as it is on the Revised Statutes of 1845. We are satisfied from our examination, and from the care shown by Mr. Gross in his former compilation of our Criminal Law, that this volume has been faithfully and accurately prepared. We should think it must come into general use.

SIDNEY BREESE.
C. E. LAWRENCE.
P. H. WALKER.

FROM GENERAL MASON BRAYMAN,

Author of the Revised Statutes of 1845.

SPRINGFIELD, 20TH OCT., 1868.

E. L. Gross, Esq.,

Dear Sir:—I have just concluded a careful examination of the "Statutes of Illinois." Your work is well done. The living law is preserved in admirable arrangement—the dead law is buried and its tomb inscribed. That which was sought in the Revision of 1845, you have attained. In one convenient volume, all the general laws in force are brought together in alphabetical and numerical order, with an elaborate and exact index. In this form, the "Statutes" will not only aid the investigations of the Courts and the Profession, but will also reach the ready comprehension of the People, who are required to know and obey them.

Sincerely yours,

M. BRAYMAN.

take the bond and transmit the same, with the other papers, to the clerk, as aforesaid.

Ibid. § 11. 12. It shall be the duty of any justice of the peace, other than the one issuing the execution or attachment under which a levy has been made, when notified by any constable of any person or persons claiming property levied upon as hereinbefore provided, to enter such case on his docket, and to proceed in all cases to have the right of such property tried as if the execution had been issued by him.

Ibid. § 12. 13. *APPEALS.*—In no case of the trial of the right of property under this chapter, shall the defendant in execution be a competent witness, and all appeals from the judgments on the trial of the right of property, shall be demanded on the day of such trial, and bond entered into before the clerk of the circuit court within five days from such trial; and in all cases of the trial of the right of property before a justice of the peace, either party may take the case into the circuit court by writ of *certiorari*, as in other trials before justices of the peace: *Provided*, that in all cases of said appeals, the praying thereof shall be a supersedeas, and stay all further proceedings until the expiration of five days.

Ibid. § 13. 14. In all cases when the plaintiff in the execution neither resides in the county where judgment was rendered, nor in the county in which such trial of the right of property is had, it shall not be necessary for the constable to give said plaintiff notice, but the trial shall be conducted in the same manner as if actual notice had been given; and in case the property shall be found to be the property of the claimant, the plaintiff in the execution shall be bound for all costs that may have accrued.

Ibid. § 14. 15. The verdict of the jury in all cases under this chapter, shall be a complete indemnity to the sheriff or other officer, in proceeding to sell or restore any such property according to the verdict; and in case of an appeal, the sheriff or other officer shall retain such property, unless the party claiming, or the defendant in the execution shall enter into a bond with sufficient security, for the delivery of such property to the sheriff or other officer, if the judgment of the court shall be against the claimant.

Ibid. § 15. 16. In trials of the right of property taken on execution, attachment or other process, by constables, the number of jurors shall be six instead of 12, unless all the parties to the trial shall agree upon a larger number, not exceeding 12; in which case the number agreed on shall constitute the jury: *Provided*, that either party shall have the right to require 12 jurors, upon advancing the additional costs and fees accruing in consequence of increasing the number over six; such additional costs and fees not being in any event chargeable against the other party.

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R. S. § 1, p. 477. 1. Act of 1845.—In all cases where a public road, canal or which shall hereafter be authorized by law, to be laid out or constructed in this state, either by the authority of the United States or this state, and the same is required to pass over the land belonging to any company, corpo-

ration or individual, and the owner or owners shall object thereto, and can not agree with the commissioner, superintendent or other person or persons authorized to lay or construct the same, on the amount of damages which such owner or owners may claim, it shall be lawful for such commissioner, superintendent or other authorized person or persons, to apply to some justice of the peace of the county where the same may occur, who shall cause three householders to appear before him; and the householders so summoned, after being sworn, faithfully and impartially to examine the ground which shall be pointed out to them by the commissioner, superintendent or other authorized person or persons, shall assess the damages which they shall believe such owner or owners will sustain, over and above the additional value which such land will derive from the construction of such road, canal or other public work, and make two written reports, signed by at least a majority of them, one of which they shall deliver to the commissioner, superintendent or other persons requesting the view, and the other to the justice of the peace; after which, it shall be lawful for the road, canal or other public work, to pass over the land of such company, corporation, individual or persons, doing as little damage as the nature of the case will permit: *Provided*, that the amount of the damages so assessed, and the costs of the view be first paid, either to the claimant or claimants, or to the justice of the peace to whom the application and return shall have been made.

Ibid. § 2. 2. If the damages assessed, are authorized by law to be paid out of the treasury, it shall be the duty of the commissioner, superintendent or other authorized person or persons having charge of such work, to transmit to the auditor of public accounts, a copy of the assessment made by the householders, together with a statement of the costs of the view; and it shall be the duty of the auditor to issue his warrant upon the treasury for the payment of the amount. And if the damages are authorized to be paid out of the county treasury, the person or persons having charge of such work, shall transmit to the county [commissioners] court, a copy of the assessment made by the householders, with a statement of the costs of the view, and if approved by the court, they shall order the same to be paid out of the county treasury: *Provided*, however, in all cases arising under the provisions of this chapter, the costs of the view of the householders shall be paid by the applicant requesting the same: *Provided* also, that nothing in this chapter, or in the several chapters relating to state roads, shall be so construed as to authorize the payment of any such damages out of the state treasury; and in no case shall any money be paid out of the state treasury for any damages as aforesaid, without a special provision of law for such purpose.

Ibid. § 3. 3. *MATERIALS.*—Whenever it shall be deemed necessary, for the construction of any road, canal or other public work, to procure from the land of any company, corporation or individual, timber, stone or sand, and such company, corporation or individual shall object thereto, and in case the person authorized to construct such work, shall not agree with the owner of the land, on the price, it shall be lawful for such person authorized to construct such work, to apply to a justice of the peace of the county, who shall cause three householders of the neighborhood to be summoned and sworn, as provided in the first section of this chapter; and it shall be the duty of the three householders to go on the ground and assess the damages which they shall believe the owner will sustain, and make two written reports thereof, signed by at least a majority of them, stating the quantity and description of the articles and value thereof, and give one copy thereof to the applicant for the view, and the other they shall return to the justice of the peace; after which assessment and report, and payment of the amount to the claimant or justice, with the costs of view, it shall be lawful to take the materials so required, from the land of the owner, doing as little damage as possible to the owner of the land.

Ibid. § 4. 4. APPEALS.—In all cases arising under the provisions of this chapter, if the householders shall report it to be their opinion that no damages would be sustained by the owner of the land, for the passage of any such road, canal or other public work, over and above the advantages which such land would derive from its construction, nothing more shall be paid than the costs of the view; and in all cases arising under this chapter, either party may appeal to the circuit court of the county, within the same time, and under the same rules and regulations, as are or shall be prescribed by law for taking appeals from the judgments of justices of the peace; and the circuit court shall proceed upon such appeal, as in other cases of appeals from the judgment of justices of the peace, and render such judgment therein as shall be consistent with law and justice.

Ibid. § 5. 5. Any person who shall remove or pull down any part of any fence, barricade or wooden structure, placed across any public road, or other public work for the purpose of preventing travel thereon, whilst the same shall be constructing or undergoing repairs under the authority of this state, or of the United States, and thereby the grading, embanking, paving or other work shall be injured or subjected thereto, shall pay to the undertaker of the work, \$5 for each offence, recoverable with costs, before any justice of the peace of the county: *Provided however*, That no such penalty shall be recoverable, unless it shall be made to appear that the undertaker of the work shall have caused a written or printed notice to all persons, to be affixed in a conspicuous place at such fence, barricade or wooden structure, forbidding the same to be removed or pulled down, or travel on the grading, paving, embankment or other work: *Provided also*, That if the said works be on any road where the United States' mail shall at the time be carried, the aforesaid penalty shall not be recoverable against the carrier, should he deem it necessary to expedite him in the passage of the mail.

Ibid. § 6. 6. In all cases where a jury of freeholders, or other citizens, are or may be appointed, under the authority of any town or city in this state, to inquire into and take into consideration the benefits as well as the injury which may accrue, and estimate and assess the damages which would be sustained, by reason of the opening, extending, or widening of any street, lane, alley or road, the owner or owners of any real estate proposed to be taken for the purpose aforesaid, or any person aggrieved by the appointment and assessment for the purpose of making payment to the person or persons whose property shall be taken for said purpose, may appeal to the circuit court of the county within the same time and under the same regulations and rules as are or shall be provided by law for taking appeals from the judgment of justices of the peace; and the circuit court shall proceed upon such appeal as in other cases of appeals from the judgment of justices of the peace, and render such judgment therein as shall be consistent with law and justice.

Laws 1852, p. 146. 7. Act of 1852.—When any public road, railroad, plank road, turnpike road, canal, or other public work, shall be located by any officer or agent of the state, or of any county or any person, or corporation vested with power to take and apply private property in the construction or use of such road, canal or other work, or for any purpose connected with the same, such as constructing bridges, dams, locks, embankments, excavations, spoil-banks, turn-outs, depots, engine houses, shops, turn-tables, boat yards, wharfs, or docks, and the right or title to property required for any such uses or purposes cannot be obtained by purchase, a petition shall be filed in the clerk's office of the circuit court of each county through which the location aforesaid is made, setting forth, by reference, the authority to construct the work, and the right

to take and apply private property, and if the right of way only is desired, describing by its numbers, or other appropriate description, each lot or parcel of land over or across which such right is desired; or if property is required for all or any of the other purposes herein specified, stating such purposes, and describing the property so required; and in either or both cases, stating the names of all persons interested, as owners or otherwise, in the property to be affected, if known, or if not known, stating that fact, and requesting such court to cause to be ascertained the compensation to be made to each owner of or person interested in property required as aforesaid, and upon payment thereof, to require a conveyance or release of the same, or that by an order or orders of court the right and title be invested in the state, county, corporation or other person in whose name or behalf the petition is filed, to be applied and used for the purposes stated in the petition.

Ibid. § 2. 8. Upon the filing of the petition aforesaid, and giving the persons interested in the property required reasonable notice thereof, at the time and place of making the application herein provided for, the petitioner in person, or by attorney, may apply to the judge of said court, or to the judge of the county court, or either of the associate justices of the last named court, to appoint commissioners to fix the compensation to be made to the parties interested as aforesaid, for the right of way over or across land, and for land required for any of the other purposes herein expressed, as well as to assess the damages which may result from the construction and use of the road, canal, or other contemplated work. Upon the hearing of which application, and each of the parties notified as aforesaid, as well as those not notified, who may appear, the said judge or associate justices shall select and appoint three disinterested freeholders of the county, commissioners to fix compensation and assess damages, according to the prayer of the petition, and also fix the time and place of their first meeting. And upon notices given as aforesaid, from time to time, or the appearance of parties without notice, the same, or other commissioners, shall be appointed to act with reference to parties, as they are notified or appear as aforesaid, until action shall be had with reference to all the parties and matters named in the petition: *Provided*, That reasonable notice of the time and place of making application for the appointment of commissioners shall be five days, and one day in addition for every 20 miles travel, from the residence of the party to the place of making application.

Ibid. § 3. 9. NOTICE.—Notices of the filing petitions and making applications for the appointment of commissioners, in respect to lands owned in whole or in part by infants, shall be served on the guardian, or if they have no guardian, on the infants and persons with whom they reside; and with respect to lands owned as aforesaid by idiots, lunatics or distracted persons, on the conservator, if they have any, if not, then on the person under whose care or charge they may be found; and with respect to lands owned by *tenes coe*, on the husbands as well as the owner; and notices to non-residents of the county, and persons whose names are unknown, shall be published in some public newspaper published in the county, if any, or if not, in the nearest paper to such county for three weeks in succession, before the day of making the application aforesaid. And notices so served or published, shall be sufficient to authorize the appointment and action of the commissioners as herein provided for: *Provided*, if such railroad or other public work, shall be located on land the property of the state, the right of way, not exceeding 100 feet in width, is hereby granted to such company, corporation or individual.

Ibid. § 4. 10. COMMISSIONERS.—Commissioners may be appointed in term time by the circuit court, or in vacation by the judges or justices aforesaid, upon the service or publication of notice being proved by affidavits, to be

filed and constitute a part of the record of the proceedings. Upon applications for appointment in vacation, copies of the petition, filed as aforesaid shall be used, and the order of the judge or justice shall be indorsed thereon, and the same delivered to the commissioners, to guide them in their action; and show the extent of their authority.

Ibid. § 5. **11.** Commissioners appointed as aforesaid shall be sworn before some officer having power to administer oaths, "to faithfully and impartially execute the duties required of them according to their best judgment and understanding, and to make all their estimates and assessments according to law." And upon being sworn as aforesaid, they shall meet at the time and place fixed by the court, or judge or justices aforesaid, and proceed without delay, upon view and inspection of the premises, as well as upon hearing the allegations and testimony of the parties interested, to fix the compensation to be made to each party or owner of lands to be taken and used as the way on which the road, canal or other work shall be constructed and pass, also for lands taken and used for any of the other purposes specified in this act; and also estimate and assess the damages sustained by any person or persons by reason of the construction and use of the work specified in the petition, taking into consideration and estimating the benefits and advantages to the parties resulting from the construction and use of the road, canal or other improvement: *Provided*, the said commissioners shall not estimate any benefits or advantages which may accrue to lands affected in common with adjoining lands, on which such road or canal or other work does not pass.

Ibid. § 6. **12.** The commissioners shall, from time to time as they make decisions with reference to lands embraced in their appointment, make reports in writing, stating separately the compensation to be paid for the right of way over or upon each lot of land, the compensation to be paid for each lot of land required for any other purpose, and the damage allowed to each owner or party by reason of the construction and use of the improvement or work as aforesaid. A copy of each report so made shall be delivered to each of the parties interested if requested, and the original, with a copy of the order of appointment, shall be filed with the clerk of the court in which the proceeding is had.

Ibid. § 7. **13.** Upon the making and filing of any report as aforesaid, any party interested, may appeal from the decision of the commissioners to the circuit court of the county as hereinafter provided; but if no appeal is taken, the decisions, estimates and assessments as reported, shall be conclusive upon the parties, and the right and title of that part of each lot or parcel of land required as aforesaid, in respect to which no compensation is allowed or damages assessed, should vest in the state, county, corporation or person in whose behalf the proceeding is had, with the right to enter upon and use and apply the same according to the prayer of the petition and right of the case, and the right and title to that part of each tract of land required, in respect to which compensation is allowed or damages assessed, shall vest in the state, county, corporation or person petitioning as aforesaid, upon the payment of the compensation and damages so fixed or assessed, with the right to enter upon and use and apply the same for the purposes stated in the petition.

Ibid. § 8. **14.** PAYMENTS.—Payments of compensation and damages, estimated and assessed as aforesaid, may be made, first to parties laboring under no disability who are entitled to the land; second, to guardians of infants, husbands or trustees of *femes covert*; third, to conservators of insane persons; and a receipt for such payments shall operate as a confirmation of the action of the commissioners, and shall estop the parties in interest from all further claims or proceeding in the premises. Payments to parties

filed and constitute a part of the record of the proceedings. Upon applications for appointment in vacation, copies of the petition, filed as aforesaid shall be used, and the order of the judge or justice shall be indorsed thereon, and the same delivered to the commissioners, to guide them in their action, and show the extent of their authority.

Ibid. § 5. 11. Commissioners appointed as aforesaid shall be sworn before some officer having power to administer oaths, "to faithfully and impartially execute the duties required of them according to their best judgment and understanding, and to make all their estimates and assessments according to law." And upon being sworn as aforesaid, they shall meet at the time and place fixed by the court, or judge or justices aforesaid, and proceed without delay, upon view and inspection of the premises, as well as upon hearing the allegations and testimony of the parties interested, to fix the compensation to be made to each party or owner of lands to be taken and used as the way on which the road, canal or other work shall be constructed and pass, also for lands taken and used for any of the other purposes specified in this act; and also estimate and assess the damages sustained by any person or persons by reason of the construction and use of the work specified in the petition, taking into consideration and estimating the benefits and advantages to the parties resulting from the construction and use of the road, canal or other improvement. *Provided*, the said commissioners shall not estimate any benefits or advantages which may accrue to lands affected in common with adjoining lands, on which such road or canal or other work does not pass.

Ibid. § 5. 12. The commissioners shall, from time to time as they make decisions with reference to lands embraced in their appointment, make reports in writing, stating separately the compensation to be paid for the right of way over or upon each lot of land, the compensation to be paid for each lot of land required for any other purpose, and the damage allowed to each owner or party by reason of the construction and use of the improvement or work as aforesaid. A copy of each report so made shall be delivered to each of the parties interested if requested, and the original, with a copy of the order of appointment, shall be filed with the clerk of the court in which the proceeding is had.

Ibid. § 7. 13. Upon the making and filing of any report as aforesaid, any party interested may appeal from the decision of the commissioners to the circuit court of the county as determined by the court. But if no appeal is taken, the decisions, estimates and assessments reported shall be conclusive upon the parties, and the right and title of each owner of each lot or parcel of land required as aforesaid, in respect to the compensation allowed or damages assessed, should vest in the state, county, corporation or person in whose behalf the proceeding is had, within the time to enter upon and use and apply the same according to the provisions of the petition and right of the case, and the right and title to the portion of each lot of land required, in respect to which compensation is allowed or damages assessed, shall vest in the state, county, corporation or person petitioning as aforesaid, upon the payment of the compensation and damages assessed or assessed, with the right to enter upon and use and apply the same for the purposes stated in the petition.

Ibid. § 8. 14. Payments of compensation and damages, estimated as aforesaid, may be made, first to parties laboring under no disability who are entitled to the land, second, to guardians of infants, husbands or trustees of *joint tenors*; third, to conservators of insane persons; and a receipt for such payments shall operate as a confirmation of the action of the commissioners, and shall stop the parties in interest from all further claims or proceeding in the premises. Payments to parties

residing in the state, but not in the county, including infants who have no guardian and insane persons who have no conservator shall be made by depositing the money with the clerk of the court in which the proceedings are had; and payments to parties residing out of the state, and persons whose names are unknown, shall be made by depositing the money in the treasury of the proper county where the land lies; and the receipt of parties entitled to money deposited as aforesaid, shall operate in like manner as receipts for money paid to parties as herein provided; *Provided*, that if any person shall refuse to receive money when tendered, payment may, in such case be made by depositing the amount with the county treasurer aforesaid.

Ibid. § 9. 15. Appeals.—Parties desiring to appeal from decisions, estimates and assessments, or either, of commissioners shall, within 10 days after being notified of the filing of the report with the clerk, execute and file an appeal bond with said clerk, payable to the people of the state, for the use of all parties interested in the condition in which bond the action or proceeding appealed from shall be recited with conditions in case the appeal is taken in behalf of the petitioner, for the due and speedy prosecution of the appeal and that he or they will pay whatever may be required by any decision, order or judgment; and in case the appeal is taken by any other party with condition that the appeal shall be prosecuted without delay; and in case the decision, estimate or assessment as the case may be, shall be affirmed or not increased, that the appellant will pay the costs of the appeal and of the subsequent proceedings therein, if adjudged so to do by the court. A bond executed and filed by responsible securities, without the name or signature of the party appealing, shall be obligatory and sufficient; and it shall not be necessary to insert any penalty in any such bond, but the party or parties executing the same shall be liable upon breach, to pay the full amount which any party interested in the condition, is or may be entitled to in the premises.

Ibid. § 10. 16. Appeals may be taken and prosecuted by husbands or trustees of *joint tenors*, guardians of infants, and conservators of insane persons; and in cases where infants have no guardian, and insane persons no conservator, appeals may be taken by the friends of such parties.

Ibid. § 11. 17. NON-RESIDENTS.—Notices to parties of the filing reports of commissioners shall be given as is required in respect to applications for the appointment of commissioners, and notices of appeals shall be given by the service of summons, as in cases of appeals from judgment of justices of the peace. *Provided*, that non-residents of the state, and persons whose names are unknown, may be notified by publishing notice as is required in respect to proceedings in chancery against non-residents.

Ibid. § 12. 18. PENDING AN APPEAL.—The entering upon, taking possession of, and applying property, with reference to which commissioners have reported as aforesaid, shall not be hindered, prevented or delayed by the prosecution of any appeal, provided the corporation or person interested in the work, or any responsible person in their behalf, will execute and file a bond with the clerk of the court in which the appeal is pending, binding the persons executing the same to pay whatever amount may be required by the order or judgment of the court in said appeal cause, and also comply with or conform to any rule or order that the court may make in relation to this matter in controversy.

Ibid. § 13. 19. TRIAL BY APPEAL.—Appeals prosecuted under the provisions of this act, shall be docketed by the clerk next after the parties' causes, and shall be tried without delay, as soon as reached on the docket, unless continued for good cause or by consent.

Ibid. § 44. 20. Appeals shall bring before the court the questions decided or reported on by the commissioners in respect to the parties to the

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appeal, and unless the parties otherwise agree, the said questions shall be submitted to and tried by a jury as other appeal cases; the jury to swear well and truly to try the cause, and in fixing compensation or assessing damages they will be governed by the provisions of the law under which the trial is had. The jury shall find and state the amount, if anything, which shall be paid as compensation for right of way; the amount, if any thing, assessed or allowed as damages; making the verdict conform to the questions and facts in the case. Verdicts may be rendered in writing or stated orally in court, and the court shall in all cases require the verdict to be recorded in such form as to express truly and fully the finding of the jury.

Ind. § 15. **21. JUDGMENTS.**—Upon verdicts rendered by juries, judgments shall be entered, declaring that upon the payment of compensation and damages, or either, as the case may be, that the right and title to the same for which the compensation is to be made, or on account of which damages are allowed, shall vest in the state, county, corporation, or person petitioning as aforesaid, with the right to enter upon, use and apply the same for the purposes stated in the petition; or, if the verdict is that no compensation shall be made in money, or damages be allowed in the premises, the like judgment shall be entered; and verdicts and judgments entered as aforesaid, shall be final and conclusive between the parties.

Ind. § 16. **22.** Payments of judgments entered upon verdicts may be made, and to have the like force and effect as provided for in § 8 hereof, or payments may be made in reference to either party.

Ind. § 17. **23. AMENDMENTS.**—In appeal cases, courts shall permit amendments to papers, records, bonds, and the execution of new bonds, whenever necessary to a fair trial and final determination of the questions involved. Courts shall also have power to make any and all rules and orders necessary to notify parties of the proceeding, and to issue all process necessary to the execution of orders and judgments as they may be entered.

Ind. § 18. **24. COSTS.**—The costs of all proceedings under this act, except such as arise or grow out of appeals, shall be paid by the petitioners, and costs of appeals shall be paid as the court may direct. Any two of the three commissioners may act and execute any or all of the duties required. They shall have power to swear or affirm witnesses who may be brought before them, also to issue subpoenas for witnesses, and by compulsory process compel their attendance. They shall also have power to adjourn from day to day, or from one day to any succeeding day not exceeding five, until they shall have determined and reported upon all the cases embraced in their appointment; and § 2, per day shall be paid to each for his services.

Ind. § 19. **25.** All corporations heretofore created by special charter of incorporation, or under the general law, where the termini have been fixed by the legislature, and none others, may avail themselves of this act.

Ind. § 20. **26.** Estimates of compensation and assessments of damages under the provisions of this act, shall be made with reference to the land or property affected, and payable to the real person entitled to the same, whether a party to the proceeding or not.

Laus. 1858, p. 201. **27. IN THE SCHOOL SECTION.**—When any canal, railroad, turnpike road, or other work of internal improvement, authorized to be constructed by any law of this state, with power by law, to condemn land for roadway or other purposes connected with such work of internal improvement shall, in its route, pass over or be located upon § 16 in any township not organized, such company shall have power to condemn so much of said section for the purposes set forth in their petition, whether for roadway, track, depots, stations or other purposes, as may be

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necessary, not exceeding for roadway and track 200 feet in width, and for depots, stations, etc., not exceeding 10 acres; and notice of the application for the appointment of commissioners to fix compensation and assess damages, shall be sufficient, if served upon the school commissioner of the county in which such section is situated, in the manner prescribed by the act to which this is an amendment; and the damages assessed or compensation allowed shall be paid into the school fund of the proper county, for the use of the inhabitants of the township in which such 16th section may be situated, and to be paid over to the treasurer of the same, when such township may be organized.

Laus. 1867, p. 185. **28. OVER STATE LANDS.**—No part of any land heretofore or hereafter conveyed to the state of Illinois, for the use of any benevolent institutions of the state (or to any such institutions), shall be entered upon, appropriated or used by any railroad or other company for railroad or other purposes, without the previous consent of the general assembly; and no court or other tribunal shall have or entertain jurisdiction of any proceeding instituted or to be instituted for the purpose of appropriating any such land for any of the purposes aforesaid, without such previous consent.

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There was an act of 1843, concerning Roads, which is printed in the appendix to the revised statutes (p. 691), as amendatory of this chapter. It took effect 1 June 1843. But it is difficult to see how it could be so, since this chapter was approved 8 Mar 1845, and took effect 10 Sept. 1845. (R. S. p. 473, § 37,) each later than the time of the supposed amendment. It is therefore omitted.

R. S. § 1. p. 480. **1. PASSING.**—Whenever any persons traveling with any way in this state, the persons so meeting shall seasonably turn their carriages to the right of the centre of the road, so as to permit each carriage to pass without interfering or interrupting under the penalty of \$5, for every neglect or offence, to be recovered by the party injured: *Provided*, this section shall not be construed to apply to any case, unless some injury to persons or property shall occur by the driver of the carriage or wagon refusing to turn to the right of the beaten track; nor shall it be construed to extend to a case where it is impracticable, from the nature of the ground, for the driver of the carriage or wagon to turn to the right of the beaten track.

Ind. § 2. **2. OF DRIVERS.**—No person owning any carriage, running or traveling upon any road in this state, for the conveyance of passengers, shall employ, or continue in employment, any person to drive such carriage, who is addicted to drunkenness, or the excessive use of spirituous liquors; and if any such owner shall violate the provisions of this section, after he shall have had notice and reasonable proof that such driver is addicted to drunkenness, he shall forfeit at the rate of \$5 per day for all the time during which he shall thereafter have kept any such driver in his employment, to be paid by any person, and collected in any court having competent jurisdiction. The penalty, when recovered, shall be for the use of the poor of such county, except that the court in which the recovery shall be had, may allow a portion of said penalty, not exceeding \$5, to be retained by such complainant as a compensation for his services and expenses.